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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,323	04/01/2004	Wayne Morris	1346.01	7554

27353 7590 09/29/2005

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EXAMINER

RUNNING, RACHEL A

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/815,323	Applicant(s) MORRIS, WAYNE	
	Examiner Rachel A. Running	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 6 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/1/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/1/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I, Figures 1-4

Species II, Figure 5

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

During a telephone conversation with Melvin Silverman on August 14, 2005 a provisional election was made with traverse to prosecute the invention of Species I, claim 1-4. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5-6 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

2. This application is in condition for allowance except for the following formal matters:

The disclosure is objected to because of the following informalities: The headings should not be underlined

Appropriate correction is required.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the circular peripheral edge proportioned for threadable engagement must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to because it is unclear in Figures 1, 3, and 4, how the liquid is reaching the absorptive pad as there appears to be a solid wall between the pad and the top of the base. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

3. This application contains claims 5 and 6 drawn to an invention nonelected with traverse during a telephone conversation on 9/14/2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Allowable Subject Matter

4. The following is a statement of reasons for the indication of allowable subject matter: The claims in the instant application have not been rejected using prior art because no references, or reasonable combination thereof, could be found which disclose or suggest a kit for grooming hair comprising a lower shell with a flat lower surface, an upper peripheral edge, an interior cavity that has a replaceable absorptive pad, an upper shell with a multiplicity of brush bristles within the internal cavity, and where the lower shell have a snap-fittable or threaded engagement with the upper shell as set forth in claims 1 and 3. The closest prior art appears to be the Friedman and Sgro references. Friedman (U.S. Patent No. 3,620,229) discloses a comb that has a lower shell having a flat lower surface (20) with an upper peripheral edge, an interior cavity (78) with a selectable replaceable absorptive pad (80), an upper shell having a flat upper (14) surface and a lower peripheral edge proportion for snap-fittable

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engagement with upper peripheral edge of lower shell. However, Friedman does not have a multiplicity of brush bristles secured to the upper shell, and it would not have been obvious to substitute the comb teeth for bristles, since it would make the device of Friedman inoperable.

Sgro (U.S. Patent No. 5,188,472) discloses a shoe polish kit that has a flat lower surface (2) with an upper peripheral edge, an interior cavity (3), an upper shell having a flat upper (6) surface and a lower peripheral edge proportion for snap-fittable engagement with upper peripheral edge of lower shell, and a multiplicity of brush bristles (4) secured within the internal cavity of the upper shell. However, the device does not disclose an absorptive pad within the lower shell and it would not have been obvious to one skilled in the art to add it since the device is adapted to be attached to the shoe polish bottle.

Conclusion

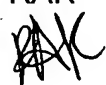
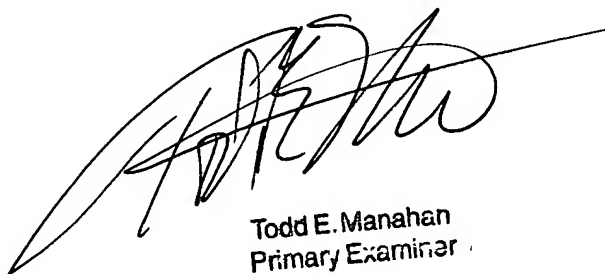
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel A. Running whose telephone number is (571) 272-1917. The examiner can normally be reached on Monday-Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAR

A handwritten signature, possibly "RAC", written in black ink.A large, stylized handwritten signature in black ink, likely belonging to Todd E. Manahan.

Todd E. Manahan
Primary Examiner